



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

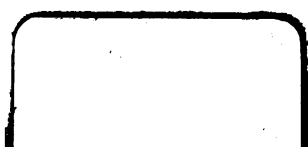
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



Gaylord
PAMPHLET BINDER
Syracuse, N. Y.
Stockton, Calif.

AN BWT ZDs
A discourse on the professions

AN
B/W
ZI

209

2⁵²

A

DISCOURSE

ON THE

PROFESSIONAL CHARACTER AND VIRTUES

OF

THE LATE WILLIAM WIRT.

By S. L. SOUTHARD.

WASHINGTON:

PRINTED BY GALES AND SEATON.

1834.

To the Hon. SAMUEL L. SOUTHARD:

The committee of the members of the Bar appointed to superintend the funeral of the late WILLIAM WIRT, beg leave to request that you will furnish them with a copy of the eulogium which you were so obliging as to pronounce upon him at their request.

THO. SWANN,
WALTER JONES,
DANIEL WEBSTER,
H. CLAY,
JOHN SERGEANT,
RICHARD PETERS,

Committee.

WASHINGTON, *March* 20, 1834.

DISCOURSE.

Is death, then, an eternal sleep? Do genius, and learning, and virtue, slumber forever in the grave; or perish like things of earth? leave no monument of good behind them? and offer, in the anticipations of the future, nothing of immortality and glory? It is the atheist's creed. It is the Christian's abhorrence.

He, whom, without affectation of grief, we mourn, has refuted the odious doctrine. *He* had the capacity to affect the conduct and character of many of his contemporaries. *He* has left memorials which will be regarded with profit by posterity; and, by a meritorious life and pious death, has furnished a persuasive argument for that religious faith which guides us here, and points to an eternity of happiness beyond the tomb. The power of virtue and talent is not unfelt at the moment of their exertion. They *do* produce salutary effects on the conduct of mankind, and often act, with increasing energy, as time rolls on. Centuries have not paralysed the examples of the patriots and scholars of

Greece, and Rome, and England. He who can, by a life of energetic virtue, excite the approbation of compeers, and enkindle the emulation of the young, must, in equal degree, operate on the prosperity of his fellow men; and he knows not when or where the influence of his life shall terminate. Examples for evil or for good, which reach our contemporaries, act, through them, on our children, and our children's children.

The partial triumph of virtue, then, is *here* and *now*; but it perishes not with the close of life. It acts upon the years which are yet to come; and its ultimate reward is the Christian's destiny.

They who survive departed worth and greatness have a legacy in the actions and sentiments of the deceased, rich in the possession, and which they are bound to secure to those who have right to the inheritance. They have a duty to discharge, to the dead and to the past; but more—to the living and to the future. It becomes them to cherish the memory of the wise and the good; to exhibit them for imitation, and to make their renown a nation's property—a nation's wealth.

In this duty, it is the privilege of afflicted friendship to partake; to aid in proclaiming the worth which it admired and loved; and thus to repay a portion of the debt which has been cast upon it.

You, brethren of the bar, have not been insensible to these truths; and our surrounding fellow-citizens testify, that you are not alone in your sensibility. A whole nation feels, with you, that HE has

5

departed, who was one of the strongest among her strong ; one of the learned among her scholars ; one of the most eloquent among her advocates ; one of the most elevated among her dignified ; one of the most virtuous among her wise ; one of the most admired among her beloved. And while we are here, to commune together, and recount the story of his life and merits, we are permitted to rejoice that he has left behind him nothing to impair the ardor of our admiration—nothing to weaken the warmth of our attachment—nothing to diminish unanimous applause. His bold and manly independence of thought, expression, and action—his unbending perseverance in the pursuit of duty—forty years of steady, and often triumphant intellectual competition and conflict, were so controlled and regulated by purity and kindness of heart and purpose, that he created, even with inferiority, no envy ; with generous rivalry, no embittered feelings, no smart. “ We loved him, for we knew him ; and who that knew him, loved him not ? ” His loss will not, speedily, be repaired to our profession, to our tribunals of justice, nor to our country ; and, to ourselves—never.

“ The professional character and virtues ” of William Wirt are inseparably combined with the incidents of his life, and cannot properly be estimated without a brief allusion to them. But these must be repeated, with rigid simplicity, and unadorned narrative of the facts, as they have been, in various ways, stated by himself to others, or communicated to the speaker in that uncovered friendship which

laid bare the illustrations of character and the feelings of the heart. Such narrative and statement alone would have satisfied his own judgment, in his own case, and been required by him as the only fit tribute from his associates and brothers. I cannot but regard the selection of your organ on this occasion, as indicating your will, that equal simplicity and absence of ornament should mark the attempted portrait of his character and virtues. The task is essayed, with feelings, in which intimate, and now agonized friendship, bears a painful part ; and it shall be discharged, with honesty in the detail, even at the expense of dulness in the speaker, and fatigue in the hearer. But I shall draw, from his own words and writings, and descriptions of qualities and manners, much that I have to say in relation to himself. In portraying the virtues of others ; in describing the properties, at which a high, but chastened ambition ought to aim, both for the benefit of the individual and the public, he often, unconsciously, sat before the mirror ; and has thus enabled me, as to several of the traits of his mind and heart, to use his own language in speaking his eulogy, and his own pencil in drawing his portrait.

The parents of William Wirt were a Swiss and a German, who resided, at the time of his birth, on the 8th of November, 1772, at Bladensburg, near this city. He was the youngest of six children. His father died when he was an infant ; and his mother, when he had reached his eighth year. Being in very moderate circumstances as to property, they



AN BWT ZDs
A discourse on the professions

left him barely sufficient means to support him at school, until he was fifteen years old. Neither distinguished ancestry, a father's fame, nor abundant wealth, aided his acquirements, excited his ambition, nor guided in the formation of his character. To him, they were not necessary. To his eminence they might have been auxiliaries, but not essentials. Resting upon his own native powers; favored by the institutions and habits of his country; and urged on by the rugged and enterprising spirit of liberty, which pervaded others and possessed himself, he formed and executed those generous and lofty purposes, which made him what he was—*sue fortunæ faber*.

His preparatory education was received in Georgetown, in Charles county, and at the school of the Rev. Mr. Hunt, in Montgomery. In the two former, he commenced the study of the Latin; but in the latter, where he remained from his 12th to his 15th year, he received the most valuable part of his instruction.

On the closing of Mr Hunt's school, he earnestly desired to be transferred to the college at Princeton, of which his teacher had been a graduate; and at the time felt deep regret that the *res angustæ domi* had prevented the gratification of his wishes.

For two years after he left the school, he lived in the family of Mr. Benjamin Edwards, in Montgomery county; gave instruction to his children and to others, and pursued his own studies with diligence and profit. Some of those whom he instructed were

of greater age than himself, and had been his school-mates, with equal advantages. But he was eminently successful in their instruction, and derived essential benefit to himself, by impressing more indelibly upon his own memory the studies of which he was obliged to be master enough to teach them. At the age of 17 he commenced the study of the law, with a son of Mr. Hunt, at the court-house of the county; and he subsequently continued it, at Leesburg in Virginia, in the office of Thomas Swann, one of our present associates; who, I feel assured, partakes with no ordinary feelings in the mournful tribute which we attempt to pay to his worth; a tribute rendered more dear to him than to others, by his recollections of the budding blossoms which preceded the rich and ripened fruit, and by more than forty years of unalloyed, congenial friendship.

Many incidents in this early period might be exhibited for the gratification of our feelings, and excite to emulation; but they are appropriate to his biography, and would inaptly protract my discourse.

Of that part of his life to which I have adverted, he always retained an evergreen remembrance. His native home; the family circle; the surrounding scenery; the youth; the manhood; the age; the neighborhood; the companions of his play and of his studies; his teachers; the incidents of labor and of sport, were always present in their minutest details, whenever he chose to recall them; and of each and all, though long separated from them, he was capable of giving the most amusing and graphic de-

9

scriptions. This was, indeed, one of the striking features of his intellect and his affections. No scenery ; no person ; no peculiarity of conduct, or even of dress ; no development of principles of action, escaped his observation. No favor, or kindness, or act of benevolence passed unheeded. He seized and stored them all, in the treasury of his memory and his heart, from which they did not escape ; nor were they lost in the lapse of years. His sensibility to the beauties of nature and conduct ; the retention of his memory, with his power of description, appeared in his private conversations, and in his public exercises ; and furnished anecdote and illustration even in the midst of his closest argument.

When he entered upon his profession, and sought a residence beyond his native State, with the exception, perhaps, of an offended usher whom his wit and waggyery had chastised, but who in after years loved and was proud of him, he left behind him nothing but affectionate regards, united with warm aspirations for his prosperity. Although an unprotected orphan, he had found in every house, a home ; in every companion, a friend ; and in every teacher, a parent.

He obtained his license in 1792, a few days before he was 20 years old ; and, with the difficulties which surrounded him, it is not probable that his preparation was enlarged and full. His first reading, independent of classical studies, was not calculated to invigorate his mind, or hasten a reputation for learning. Works, like Guy Earl of Warwick, and Pere-

grine Pickle, are said to have first fed his literary appetite, and increased his desire for more and stronger aliment. In the libraries of his preceptor, Mr. Hunt, and his friend, Mr. Edwards, he found a few others better calculated to assist, and polish, and strengthen his mind; and he devoured them as whim, or fancy, or accident, directed. Pope, Addison, and Hume, with some of the historians of past ages, completed the circle of his general reading.

He probably carried into the study of the law less accurate knowledge in other branches of learning than in the Greek and Latin languages. Those who were familiar with him as a companion and speaker, must have observed the promptness and the aptness of his quotations from both the ancient and modern classics. This had its origin in the exercises of the grammar schools, such as capping verses and reciting passages from memory, which were similar to those in the schools of England, and which he remarked "give to the speakers in St. Stephen's chapel quite as much facility and reputation, on this point, as their own warm poetic sensibility;" and was perfected by the labor of instruction. He retained, through all his professional life, great fondness for Horace, Virgil, Cicero, Seneca, and the other Latin classics; one of them, usually Horace, was an inmate of his valise in all his rides to the county courts; and the candle often flickered in its socket, before he bade good-night to the satirist.

He, very early, attempted the art of writing; but nothing is to be found of his schoolboy efforts, which

can justify an estimate of his success in the imitation of Pope and others, whose precocious authorship inspired his emulation. We only learn that he wrote a satire on the usher, for some real or imagined injustice towards himself, which amused the principal, and inflamed the resentments of the usher, and induced him to withdraw from the school. And also, that having attended a few times at the court of the county, and heard some causes tried, he drafted a constitution and body of laws for a court to be composed of his playmates, accompanied by a letter of apology for the deficiencies of his work. Whether the letter was in imitation or ridicule of the example of his seniors, we are not told. What was the real merit of these performances, it is too late to decide ; but they and other efforts occasioned an augury of future reputation, and secured useful favors to him. The latter, especially, attracted the notice of Mr. Edwards, of whose kindness he always spoke with grateful sensibility. Mr. Edwards, though a man of limited education, had strong and original conceptions—benignity and sportiveness of disposition—a clear and even polished mode of speaking—ardent love of the principles of liberty—and deep veneration for those, in every age, who had been its advocates and defenders. He saw the embarrassments which his young friend had to encounter; and labored, as a parent labors, to urge him on to their overthrow. One of these was a painful timidity, amounting to absolute bashfulness—so oppressive, that it produced confusion, impediment, and fluttering of speech, even

in common conversation. In addition to this, his enunciation was bad. Although he did, on one occasion, bear off the palm of eloquence in the school, yet he attributed it rather to the vanity of the teacher, who had written his speech, than to his own oratory. They who have since been familiar with the clearness, music, and flexibility of his voice in conversation, and his distinct, emphatic, and unembarrassed pronunciation in public speaking, may find it not easy to credit that then, and even after he entered on the practice of his profession, his utterance was thick—his tongue clumsy, and apparently too large—his pronunciation of words clipping—and, when excited by feeling, his voice unmanageable; sometimes bursting out in loud, harsh, indistinct, and imperfect articulation. But history tells us of the pebbles of Demosthenes; and it is over such adversaries that labor and genius obtain their triumphs. He did not sink into despondency under them, as thousands would have done. He knew that to conquer nature must be his own work—and his success was complete.

After he obtained his license, he went into the counties of Culpeper, Orange, and Albemarle, in the State of Virginia, to select a place for his professional action, and subsequently pursued the practice there. On this trip, he first met *one*, before whom he has so often since discussed the interests of his clients, abstruse legal questions, and the principles of the constitution—who has so long held the scales of law and justice, in a hand that never trembled—

13

and whose name may not now be repeated, although it is so deeply lodged in our affections, and so often bursts, with almost involuntary emotion, from our lips.* On his return, he drew, for his friend Swann, the portrait of that individual, present and prophetic; and never after desired to change its colors or its features.

He was, probably, moved to the selection of his residence by the belief that he should find a wider sphere for exertion, more sure prospects of wealth, stronger competition, and loftier distinctions in the then palmy state of that ancient commonwealth. The result proved the wisdom of his choice. Wide as was the sphere, he was found capable of filling it; strong as was the competition, he did not sink under it; lofty as were the distinctions which she bestowed on learning and eloquence, they, more than once, courted his acceptance; rich and abundant as were her jewels, her adopted son became one of the most precious.

His first appearance was in a cause, in the county court of Culpeper, which had fallen into the hands of a young acquaintance. It was their joint and only stock, with which their adventure was to be made; and deserves remark, only, as the first effort of the mind of William Wirt in a profession, which, for more than forty-one years, he pursued, dignified and adorned. There had been a joint judgment against *three* for assault and battery; two had been released subsequent to judgment; the third taken in

* Chief Justice Marshall was present at the delivery of the discourse.

execution and imprisoned. Our tyroes did not resort to the old remedy by *audita querela*, but asked relief by the more summary mode of motion, according to the indulgence of courts in more modern times. The motion was presented and argued by his associate. Some of the members of the bar, dissatisfied with the mode of proceeding, and the principles advanced in relation to the release, interposed their advice, as *amici curiæ*—a practice at that time, and perhaps yet, quite common in that class of tribunals; arising, probably, from their composition, and the courtesy existing between the court and the bar. They possessed both common law and chancery jurisdiction, and were, in former times, composed of intelligent gentlemen of the counties, who, without fee, rendered to their fellow-citizens the service of deciding their controversies, and were anxious to have the lights which could be afforded by learned practitioners. I know not whether they have degenerated; but at that, and a period more recent, the principles of justice, law, and equity were administered by them, with a correctness which would have done credit to less unpretending tribunals. The pride, the ambition, and perhaps some portion of the resentments of Mr. Wirt, were roused by the interference with his motion, and the manner in which it was treated; and his reply was animated and ardent, yet firm, collected, and successful. It extorted the approbation of the court and audience, and introduced him to more than one individual who predicted his future reputation, and follow-

15

ed him with firm and constant friendship through life.

His practice increased with some rapidity, and was pursued in those counties for nearly seven years, four of which he passed in the family of Dr. G. Gilmer, to whose daughter he was married in 1795. The bar in those counties, as elsewhere in Virginia, was candid, urbane, and respectable for talent and acquirement. His associations among them were pleasant, and he speedily acquired an uncommon share of reputation, both as a lawyer and an advocate. It is not to be believed that his legal learning then merited very high applause. Stores of this kind of knowledge are not laid up in a brief space, or with few advantages of books and study. He probably owed his reputation more to his labor in his preparation for each case, to his prompt and skilful use of what he possessed, and to the force of his own talents, than to any extensive or accurate acquirements. His extra-professional reading had also been generally desultory, and often light—rather calculated to furnish amusement and the gratification of his taste and fancy, than solid instruction. His difficulty in speaking was, however, wearing away under the self-discipline which he imposed, aided by his fine ear for music, and a correct sense of what is requisite, in the voice and manner, for success in oratory. His reputation for eloquence was high. Stronger and more cultivated minds were pleased with the vigor of his conceptions and the cogency of his arguments; while inferior ones

were delighted with his exuberant fancy, and almost wild imagination. Among the former were men whose history belongs, not to a county, but to a nation; and they gave evidence of their respect and regard for him; and the most amusing anecdotes are recollected of the impressions which he made upon the great mass, who esteemed him as a master spirit in the art.

This period was also a time of imminent peril to his future hopes. He had then a vigorous constitution—fine mould of person—open, frank, and prepossessing countenance—graceful carriage and manners, though sometimes quick and impetuous. He was social in his disposition—fond of music to excess—performed skilfully on some instruments, and sung with uncommon ease and melody. He was full of animation—fond of anecdote, and told them with remarkable point and brilliancy. His powers of conversation were of a polished and classical kind; so that he was, literally, a fascinating companion. These are dangerous possessions to a young man, especially to one who has been early bereft of the shield and the refuge which the family altar and domestic fireside afford. It was natural that he should be sought by the young, the gay, and the ardent, and urged to partake in all the sprightly and dissipating amusements of the day. The trial was severe—his temper was social and yielding—his resistance too feeble for his own profit—too unsteady for the avoidance of some of the natural consequences. He lost firmness, and time and

progress, in the road to distinct eminence. He was in jeopardy of shipwreck ; and with less of native vigor, less of high and generous ambition, less of virtuous principle, he would, like thousands of others, have been borne on those waves beyond the sight of beacon, shore, or harbor, and lost forever. But there was a redeeming spirit in his nature—a light which penetrated the darkness ; and, let me add, a saving hand in that Providence which cast succeeding events in his pathway.

His residence in the family of Dr. Gilmer, until the death of his wife, in 1799, was useful to him. Dr. Gilmer had a high professional and classical reputation, pure wit, and warm benevolence. The society around him exhibited a fine specimen of Virginia intelligence, elegance, and hospitality. Such a mind as Mr. Wirt's could not fail to profit of these circumstances. He mingled much in society, and formed an acquaintance with Monroe, Madison, Jefferson, and others, whose affectionate attachment remained unabated and ardent in his subsequent career, and was manifested by them all on every suitable opportunity. But he did not satisfy himself by social intercourse and professional pursuits. It was a period of immense importance to his future fame. He read and wrote diligently, and devoted an earnest attention to composition and to the formation of a correct style, which he had previously too much neglected. He also stored his mind by the earnest study of Bacon, and Boyle, and Locke, and Hooper, and other fathers of English literature ; and the ef-

fects upon his intellectual powers were apparent and permanent. Although the exuberance of his prolific fancy was not yet subdued to the tone of his latter years, yet its wanderings were, in some degree, better corrected and controlled.

After the death of his wife, in 1799, he was elected clerk of the House of Delegates of Virginia—an office of larger profits and higher grade of respectability than in some of the other States. Here he became conversant with a large proportion of the gentlemen of talents in that part of the country, and with the deep agitations of political controversy. It was a time of great excitement; and the proceedings of the Assembly in that year have been the subject of more discussion, and produced a stronger effect on the formation and fate of parties, and the construction of the constitution, than those of any which has assembled in that or any other State. They have been text books for succeeding politicians; although, I believe, *their precise meaning* is, even yet, subject of debate. Of their merits, the occasion does not require me to speak. The constitutional opinions of the clerk, at that period of his life, may be inferred from the fact, that he concurred in their general principles. The impression which he made upon the members of the Legislature, by the manner in which he discharged his office, and by his intercourse with them, was exhibited in his selection, two years afterwards, for a high and weighty office.

His first appearance in Richmond, as a speaker, was upon the 4th of July, 1800, and in the defence

of Callender. This oration is in print, and worthy of perusal. It exhibits a fine contrast with the more chastened productions of later years ; showing the effect of labor and study upon a mind capable of great effort and steady advancement. It is fervid, rapid, imaginative, descriptive—full of imagery, fine feeling, and principle—not destitute of sober thought, but not carefully and diligently arranged or pruned. The trial of Callender brought him into notice, as well from his performance, as from the treatment of the court. It will be recollected that the conduct of Judge Chase gave rise to one of the charges on his impeachment. His interruption of Mr. Wirt, and commanding him to sit down, were considered by many as harsh and intolerant. But the recollections of the parties justify a favorable inference as to both. The advocate retained no resentments, and did not appear as a witness against the accused. The judge afterwards spoke of the talents and manner of the advocate with kindness, and felt an interest in his prosperity.

Previous to 1802, but one Court of Chancery existed, having jurisdiction throughout the State, and held by the learned and profound Chancellor Wythe. In that year three courts were created. The court of the Lower District was directed to be held at Williamsburg ; and the Legislature, most unexpectedly, without solicitation, with great unanimity, and greatly to his own surprise, appointed Mr. Wirt Chancellor of that District. The idea of this appointment was suggested to him on the evening preceding its occur-

rence ; but he supposed it to be, and treated it, rather as the light and free suggestions of some intimates, than the fixed purpose of the members ; and he took his seat at the clerk's table as usual. When the nomination was to be made, he was privately requested to retire, but, still under the same impression, refused ; and the person nominating him had risen to speak, and was embarrassed by the awkwardness of his position, which the Speaker perceiving, leaned forward and requested Mr. Wirt to leave his seat for a few minutes. He did so ; the nomination was made, and seconded by two of the most respectable of the members, and carried without opposition—a most gratifying and uncommon evidence of attachment and confidence in the learning, talents, and virtues of a man, not a native of the State ; not then quite thirty years of age ; without a particle of extraneous influence, which his own character had not produced ; and in a community abounding with men eminently qualified for the station. He did not seize with avidity upon the offer. He felt the weight of the trust, and apprehension of the unfitness of his age and qualifications. He hesitated painfully ; and consulted his friends, and, among others, Mr. Monroe, then Governor of the State, on whose wisdom he always felt great reliance. He did, however, accept the office ; and, during the short period in which he discharged its duties, added to his reputation by a patience, industry, and learning, suited to its important functions.

In the autumn of that year he married Miss Gamble—for thirty-three years the *wife*, and now the *widow*. Of her, I shall not attempt here even the outlines of a picture ; but it is due to both to say, that seldom, in this world, have there been more congeniality and happiness. And he has left the declaration, that, to her purity and intelligence, wisdom and piety, he owed a large amount, not of his enjoyments and happiness alone, but of his intellectual, moral, practical, and religious worth and usefulness. That sacred relationship produced, in these cases, its appropriate and beneficent effects. One of the joys of the garden, it alone, of all the relations of man, survived the ruins of the fall, to scatter light, love, and blessings amid its desolations.

This marriage, the incompetency of his salary to meet the wants of a family, and, perhaps, the unextinguished ardor for that kind of distinction which results from professional celebrity, induced him to resign the office of Chancellor, with an intention to seek for fame and fortune in the great and growing West. From this intention he was diverted by the advice and solicitation of his friends, and especially of the Governor elect of Virginia, who tendered to him a participation in the extensive practice which his commanding talents had secured at the bar, in Norfolk—an offer made in a generous spirit, and as generously declined. He, however, went to Norfolk and after a residence there of about three years, returned to Richmond, where he continued until his removal to this place, in 1817.

During the period of about thirteen years in Norfolk and Richmond, he was engaged in every variety of cause, civil and criminal, and under all the jurisdictions known to our State and Federal institutions. It is a period replete with incidents of importance to those who seek a knowledge of his professional character, of the qualities of his mind, and of the force and depth of his virtues. But it would be improper in me to fatigue your attention by any thing more than a hasty allusion to a few of them.

His practice was, principally, but not exclusively, confined to the courts in those cities. He was sometimes called to other and to distant places, where his powers, both in civil and criminal causes, were understood and valued. He had to contend with the master spirits of the Virginia bar—the Tazewells, Taylors, Wickhams, Randolphs, and other *clara nomina*. To have been able, at his age, and with the obstacles which had impeded him, to sustain the conflict without discomfiture and disgrace, gives proof of no ordinary mind. But he emerged from it with the generous applause of his competitors, and the augmented regard of his fellow-citizens. The competition was useful to him. It required that every hour should be devoted to literary and professional exertions; and every hour new and merited confidence and respect followed those exertions. It is only in the conflict of mind with mind, that the highest intellectual powers can be developed and invigorated. He who would triumph greatly, must not seek inferiority with which to contend. The strug-



AN BWT ZDs
A discourse on the professions

23

gle must be with the strong, and the preparation for that struggle incessant. The Olympic wreath must be won by unceasing discipline, and by straining every nerve and muscle in the game. It was so with him. He entered the lists, not only there, but here, with bold and vigorous champions. The conflict kept his armor always bright, and proved the good temper of the steel. His bow he permitted to be only so far unstrung as to retain its elasticity and strength ; his quiver he furnished with arrows of the purest and finest point ; and he sped them with Apollonian skill and grace.

One of the first causes which engaged his attention, after his return to Richmond, was the trial of Aaron Burr, in 1807. He was employed in it, to aid the District Attorney, by the direction of Mr. Jefferson, then President of the United States. It were useless to comment at large on that trial. It agitated both patriotic feeling and party passion. It rendered the names of those concerned in it familiar at every fire-side in the nation. To Mr. Wirt it gave his full share of celebrity ; but, I believe, at the same time, did real injustice to his reputation, by the general circulation of an extract from his principal speech, which described the character and situation of Blennerhasset and his wife. That extract was regarded as the work of fancy only, while its most glowing colors were justified by the evidence in the cause. But it led to the impression that law and reasoning were neglected by him, for the play of imagination. They, however, who have read with

attention the whole of his arguments on that occasion, will not hesitate to apply, as well to him as the other counsel, the commendation of the court, that "a degree of eloquence, seldom displayed on any occasion, embellished solidity of argument and depth of research." It was, also, probably true with him then, and at other times, as it is often with earnest, brilliant, and impassioned speakers. More injustice is done to them, in the reports of their speeches, than to more cool and deliberate, though inferior men. The reporter, whether skilled in the art of stenography or not, cannot follow them. His feelings become interested; his pen is not rapid enough for the flight of mingled thought and fancy; he loses self-possession and composure, and necessarily presents an enfeebled and disjointed picture of the argument, perhaps even more than of the illustration. The loss is irreparable. The address carried along the hearer with irresistible power; but it cannot be recovered, even by the speaker himself, after the excitement has passed by. The victory has been won, but the weapons are scattered, and the order of their combination and use cannot be restored. Is it not, in great part, owing to this fact, that we have now to rely on contemporary fame, and the effects which he produced, for our estimate of that great orator of nature, Patrick Henry; and that not even a single perfect specimen can be found of the most commanding efforts of Pinkney's mind?

In 1808 Mr. Wirt was elected by the people of Richmond a member of the House of Delegates,



AN BWT ZDs
A discourse on the professions

without the canvass which is usual in that State—an unsolicited tribute by his fellow-citizens, and the only occasion, through life, on which he permitted himself to be a candidate for the popular vote, except at the last presidential election. While in the Assembly, as a member of a special committee on the foreign relations of the country, and the measures of the general administration, he wrote a report defensive of those measures. It was strong, impartial, indignant at the injuries inflicted by France and England, and in all respects worthy of the times, the occasion, and the man.

In July of that year he prepared an address to the people of that State, on behalf of the Manufacturing Association of Virginia, which reviewed the acts of the belligerents, exhibited their operation on our commerce and other interests; urged the propriety of fostering domestic manufactures; and insisted that the country was prepared, by its capital and enterprise, to accomplish it successfully. He also addressed three letters, signed "One of the People," to those members of Congress who had protested against the nomination of Mr. Madison for the presidency. They were written with a polish and force of style seldom found in the newspaper essays of this country; and they bear an emphatic testimony to the services and merits of Mr. Madison. They were generally published through the nation, and are said to have produced great effect, not only on those to whom they were addressed, but on popular opinion. Of the political

opinions contained in all these papers, it is not my purpose to speak. They are mentioned as evidences of his style of composition ; of the interest which he took in the concerns of the country ; and of that industry which was not confined to professional occupation alone.

But there is other and stronger evidence on these points. In 1803 he wrote the letters of the British Spy ; in 1812 those of the Old Bachelor ; and in September, 1817, published the Life of Patrick Henry. The two former were newspaper essays, which have been collected into volumes, and have been sufficiently popular to pass, the one through three, the other through ten editions. The severity of criticism ought not to be applied to the style or matter of these works, without recollecting the circumstances under which they were produced. They were essays intended to appear in the ephemeral journals of the day, and expected to perish with them. They were the results of a few leisure hours stolen from the laborious pursuits of his profession. They were not subjected to the *limæ labor et mora*. When these facts are considered, they may defy the severity of criticism, and claim equality with any which have been produced under similar circumstances. They add a wreath to his fame, which any jurist might desire to have bound around his own brow.

He commenced one of them, it is said, to repel the rude insolence of foreign travellers and critics upon our country. But he had a higher aim—to

turn those very strictures to our own profit ; to prune away our faults, and thus wipe off the reproaches which had been cast upon us ; to increase the love of literature ; to benefit the manners and morals of society, and to hold out to the young fit objects of pursuit. He designed to draw a picture of living manners, and he has given one, new, original, and entertaining. He went into what, in his own language, "was a vast field covered with a heavy harvest, which no sickle had entered," and which, some other has remarked, no reaper of equal skill has since entered. All his sketches, whether of persons or manners, bear evidence of close observation. He endeavored to bring his lectures home to the bosoms of his readers ; but not in the mode of Aristophanes, who hoisted his philosopher to the clouds in a basket, thence to lecture his pupils below ; nor like Villiers, who exhibited the living general and the admired poet in farce ; or, like Foote, who entertained the public with the natural defects of the impassioned minister of the gospel, and assumed the dress and mimicked the manners of those he satirized and burlesqued ; but, like Addison, he presented a delightful, moral, literary work, drawn from living manners, with the interest of fiction, and the illustration and force of moral truth.

At this period of his life, and up to the time when he received the appointment of Attorney General, I believe the prevalent impression, out of the circle of his practice, was, that he possessed rather showy than solid talent and acquirement—more of belles

lettres and classical, than abstruse legal learning. Such was my own impression; but when I expressed it to a most competent judge, intimately acquainted with him, and the witness of many of his arguments, he replied, "Your estimate is wrong. His true character is that of a laborious, profound lawyer, more conversant with the *black letter* than even with works of taste, poetry, and fiction." He lived long enough to correct the false opinion which the public had formed of his intellect and acquirements. Their error had resulted from some of his lighter productions having been generally read, while there was comparatively an entire ignorance of the vigor and learning which he brought to the discussion of his causes. They had seen his 4th of July oration; a sketch of his speech in the singular case of Shannon; the letters of the British Spy and Old Bachelor; and parts of one of his speeches in the trial of Burr, and some other fugitive pieces; and they inaccurately inferred that the mind which produced *them*, in the midst of a professional career, must have tendencies and occupations which would prevent it from being stored with the more dry, and, to most men, tedious doctrines of the law books; and that his excelled in the ornamental, rather than the severe and cogent properties of oratory. The inference was, in part, correct. The bias was strong; but imagination, taste, and fancy, were not the ruling powers of his mind. They held, even then, but a divided empire; and, as he advanced in life, it became more and more apparent that masculine judg-

ment, and close, logical, and lucid argument, were his decisive characteristics.

When Mr. Jefferson retired from the presidency in 1809, he felt a very natural and earnest solicitude for the future course of the Government, and the success of those who were to succeed him; and he desired to strengthen the hands of those to whom the destinies of the country were, for the time, to be committed. With these feelings, he urged Mr. Wirt to enter on a career of political distinction, and held up before him confident calculations of success. Mr. Wirt did not perceive that duty to the country required it. He was not dazzled by the prospect, and would not be withdrawn from literary and professional pursuits; and he had his reward in a calmer life, a less assaulted reputation, and higher renown for intellectual vigor. The example deserves at least the sober thought of the young men of the country. They who have, from choice, or the apparent necessities of their situation, ventured on another voyage, may tell them of dangers, and storms, and losses, and shipwrecks, to which that voyage is liable, and that it is wise to repress the propensity to venture upon it for the gratification of selfish ambition alone. When their country calls, they have, and ought to seek no alternative. She claims the homage of their hearts. Their services are her due. On her altar private comfort, personal interests, even fame and life, are to be laid, as offerings, not of *constraint*, but of *devotion*.

In 1816 an opportunity occurred for Mr. Madison to give to Mr. Wirt an expression of his regard, in the sphere which he had chosen for himself; and he was appointed District Attorney of the United States for Virginia.

In the following year, at the age of forty-five, he received from Mr. Monroe, one of his earliest friends, the appointment of Attorney General of the United States; and with the kind of preparation which has been detailed, and the reputation which I have endeavored fairly to estimate, he accepted the appointment, and moved to this city—to the vicinity of his native home, from which he had been so long separated. The change which had been effected in himself and the surrounding country must, to a mind and memory like his, have been full of sensibility, even to overflowing. He left a family circle; he found a closed home and scattered relatives. He left his little village in the animation of prosperity; he found it palsied and sunken. But, in contrast of these, he went a pennyless orphan, with no human hand to protect and guide him; he returned himself the guardian of others, and the dispenser of opinions which were to affect the rights and interests of thousands. He went unknown and with a name untold; he returned with that name upon the lips of millions. He left the hills and valleys which surround us, and over which his boyhood had sported, occupied by few inhabitants, and sprinkled here and there with the results of human labor and industry; he found them covered with a population of ten thousand

souls, and on their heights the magnificent edifices where a nation's power and sovereignty were represented, and a nation's agents assembled to guard her interests. He left his native State a feeble and struggling member of an inefficient and almost powerless confederacy; he found it the thriving and prosperous equal and constituent of a Government—strong, because the emanation of a people's power, sustained by a people's love, and acting with beneficent influence on a whole people's prosperity—holding out to other nations a united sovereignty, which demanded and enforced respect and justice—designated by its flag, whose combined stripes are not pale, nor its stars dim; and bearing aloft, high enough to be seen by the scattered and oppressed millions of the human family, the beacon lights of liberty and law—"hope of the fettered slave, and glory of the free."

In such a Government he was to bear an important part. The station which he was to occupy was difficult enough to try the strongest powers and purest virtues; and, when filled with talent and learning, efficient in producing a regular and safe administration of the laws.

The office of Attorney General for the United States was created, and its duties defined, by the 36th section of the judiciary act of 1789; and had been held in succession by Randolph, Bradford, Lee, Lincoln, Smith, Breckenridge, Rodney, Pinkney, and Rush. The duties are, "to prosecute and conduct all suits in the Supreme Court, in which the United

States are concerned ; and to give advice and opinion upon questions of law, when required by the President of the United States, or when requested by the heads of any of the Departments, touching any matters that may concern their Departments." He is thus constituted the legal adviser of the executive branch of the Government—the counsellor of the nation in the execution of the laws. He is, at the same time, and has so been from the commencement of the Government, a member of the confidential council or cabinet of the President ; and is thus compelled, not only to discharge duties appropriately professional, but to mingle in the deliberations and express opinions upon those general questions and interests which spring out of the action of each of the Departments, and of the whole combined, which affect the internal prosperity and external relations of the nation. He must, therefore, be not only a good lawyer, but a safe statesman. There is a peculiarity in the responsibility of this officer, which requires the exercise of more than common care in his selection. He does not deal with the ordinary routine of business, which inferior intelligence and system can manage ; but when doubts and difficulties intervene upon the powers conferred by law, or the rights intended to be secured, the appeal is made to him. His labors are always connected with perplexing subjects ; and his opinions, as well as his arguments in court, relate to every variety of questions which can arise under our institutions, or from our connexions with the com-

merce and Governments of the world. *Hic labor, hoc opus.* His opinions, too, are official ; not merely persuasive upon the judgments of other officers, but, *so far as the construction of the law is concerned*, regarded as binding ; and, if error be committed, the responsibility is, in a great degree, taken from them, and cast upon him—a responsibility by no means light, to a sensitive and well organized mind.

The character and action of this office, and the mode of performing its duties, were essentially changed by Mr. Wirt. Before his time, those who held it, although the confidential counsellors of the President and legal advisers of the departments, did not reside constantly at the seat of Government, except his immediate predecessor, who lived here at the time of his appointment. Mr. Wirt removed with his family, and continued here throughout his whole period of eleven years and four months, more than twice the time during which the office was held by any other ; and, by his residence here, the labors of his office were much more than doubled.

In one respect he contracted the action of the office, or rather, he refused to be led beyond the limits prescribed by law ; and the incident not only furnishes a guide to his principles of action, but fixed a salutary boundary for the Legislature, in relation to his department. In a few instances, (I believe they were but few,) the Attorney General had been called on, either by Congress or by committees, for opinions in matters which were before Congress. His residence here was calculated to increase such

calls. In the spring of 1817 the House made an order to refer to the Attorney General sundry documents in relation to the accounts of an officer during the late war. He found these papers, in his office, in the succeeding fall ; and in December made a report, in which he expressed an opinion on the legal liability of the party in the supposed case, but altogether declined giving an opinion upon the merits, or even considering the facts. On the 28th of January, 1820, the House referred to him the petition of Joseph Wheaton, and accompanying documents, with the report of the Committee of Claims. Five days afterwards he returned the papers to the House, with a letter, in which he explained his views of his official duties under the law, which he recited and discussed ; declared that the service required of him was extra-official ; and that he should violate his sense of his oath if he was instrumental in enlarging the sphere of his official duties, among which was not that of being the legal counsellor of the House of Representatives. He adds: "It would be incalculably dangerous to permit an officer to act, under color of his office, beyond the pale of the law. The precedent is not less dangerous, on account of the purity of the motives in which it originates. The maxim is as old, at least, as republican Rome, that *omnia mala exempla ex bonis orta sunt*. It gives me more pain to be thus obliged to decline, than it would give me trouble to make the report ; but, in a conflict between my wishes and my sense of duty, there ought to be no question

"which I should obey." The practice since has been in conformity with the views thus expressed ; not only in relation to Congress, but other officers.

He had, previous to this time, in the year succeeding his appointment, addressed a letter to the chairman of the committee of the House, which is still, I believe, on file, calling attention to the state of the office, and requesting a remedy for certain defects, which he regarded as injurious to the public interests. The remedy was not then applied. One of his requests was, that means might be provided for furnishing a record of the proceedings of the office. This he had already commenced without aid. He had found no opinions of his predecessors, no papers, no notes, to inform him what had been done by them ; or the construction put on the numerous laws which had been subject to question and debate. This he regarded as an unfit state of things, in an office whose sphere of action was so wide ; whose decisions are of such extensive and unremitting practical effect ; and where consistency and uniformity should prevail. He, therefore, determined to make a regular record of every official opinion and letter written by him ; to file the papers and documents on which they were formed, with corresponding references, to give facility in their future examination. This record bears date on 12th of November, 1817, the day he entered on the duties of his office ; and the last recorded opinion is on the 17th of January, 1829, though some of the letters are of a later date. They fill two large volumes and

nearly half of a third, besides a letter book ; and contain, I doubt not, more opinions and letters than were written by all his predecessors, from the establishment of the Government. They amount to more than one for every week that he held the office ; and were prepared with care, elaboration, and thorough investigation of facts and law. One of them, which had been given as advice to President Monroe, was subsequently, upon a call, sent to the Senate, and fills nearly fifty pages of congressional printing. They all relate to matters of importance in the construction of the laws ; many of them to the most difficult and interesting subjects of municipal and constitutional law, as well as the law of nations, which occurred during three presidential terms. They will prevent much uncertainty in that office hereafter ; afford one of the best collections of materials for writing the legal and constitutional history of our country ; and remain a proud monument of his industry, learning, and talents.

It is difficult to state the precise number of causes in the Supreme Court, in which the United States were concerned, because they often have an interest, though not a party on the record ; but the number on the docket, for several years past, which he had to prepare, do not, I believe, average less than forty, and those argued and disposed of not less than twenty-five at each term. These causes were usually of magnitude, and always brought him in conflict with minds of the highest order. That court is the very battle ground of intellect. In every cause

he was thoroughly and minutely prepared ; its slightest incidents, every question of law, applicable to it, were examined upon principle and authority ; and to every cause in which he represented the Government he did entire justice. The rights of the United States were most fully and amply guarded by him.

It will be recollected by all whom I address, that, in the year 1826, the fourth of July was, in the dispensations of Providence, consecrated anew by the death of Mr. Jefferson and Mr. Adams ; an event which has since been rendered more memorable and impressive by the death of Mr. Monroe, on the same great anniversary. The citizens of Washington, desiring to give appropriate expression to their feelings on that occasion, selected Mr. Wirt to deliver an address. It was delivered in this hall, to an immense multitude of hearers ; and the public judgment has assigned to it a place among the most masterly efforts which the literature and eloquence of our country have produced.

In the winter of 1822, when the court was in session, his vigorous constitution received a sudden and violent shock, which had the appearance, and some symptoms, of an apoplectic kind ; and he did not, during the remainder of his official term, nor, indeed, during his life, entirely recover from its effects. It was, probably, the result of a labor too intense and unremitting for the human body to bear ; and would have induced any other man, with whom I have been acquainted, to relax ; but it did not produce this effect on him. To the last moment of his life, dis-

ease and impaired health seemed neither to weaken the vigor of his intellect, to repress the ardor of his feelings, nor to enfeeble his exertions. He lived in one perpetual struggle, and died almost in the very act of conflict. On the 3d March, 1829, he resigned his situation as Attorney General, under circumstances known to all. It was during the sitting of the Supreme Court ; and there were several causes on the docket in which the United States were interested, and which his successor might not be prepared to discuss, so as to protect their rights. He, therefore, in the most courteous and generous spirit, tendered to him any aid in his power, either of advice or argument. The offer was not, I believe, accepted.

Mr. Wirt carried out of that office a reputation augmented, wide spread, most splendid. His course in it had been fearless and patriotic ; governed always by the candor, honor, truth, and justice which become an Attorney General for the United States. He pressed the claims of the Government with befitting earnestness ; but never, knowingly, passed the line which law and truth designated. He felt that the just Government of a free country can have no interest in the wrongs of its citizens ; no profit from injustice ; no glory from oppression.

Retirement from office did not diminish the respect of his country, or his professional reputation. He removed to the capital of his native State, and continued a practice both extensive and lucrative. His aid was sought by individuals ; by corporations,

in every part of the Union ; by States ; and even by the Government itself, in causes of large importance. On one or more occasions he was called to Philadelphia, New York, and Boston. It was natural that his reputation should *there* be put to a severe trial. He would necessarily be met by the strongest, and they sustained in their efforts by the countenance of admiring friends. Report may well be credited when she declares that those trials were giant struggles of giant intellects. They attracted the taste, the fashion, the learning, and the wisdom of those cities ; and the award, while it sustained the merited distinction of his antagonists, gave assurance that his own fame was *just*.

It would be a vain and hopeless effort in me to attempt the designation of those cases, in which his learning as a jurist, and his eloquence as an advocate, were best displayed. Each successive effort, where the cause demanded it, seemed to surpass its predecessor ; but, among them, we may refer to the steamboat cause, to the Cherokee case, and to the impeachment of Judge Peck, as furnishing specimens of all the properties which adorn the jurist and advocate—inferior to none which have ever been exhibited at the American or British bar.

In July, 1830, at the request of one of the literary societies, he delivered an address to the students of Rutgers' College, New Jersey ; and in October of that year, another to the people of Baltimore, at the celebration occasioned by the recent revolution in France. These addresses afford examples of his

mature style of composition, sentiments, and feelings.

In 1832 he was nominated and supported as a candidate for the Presidency. We are too near the time of that event, and it was too closely connected with the excitements of the day, for me, here, to comment on that nomination and its acceptance. He has taken care to record, for future use, every thing which occurred on that occasion ; and it will be the duty of his biographer to give it to the world. It is my part only to say, that the selection, under the circumstances, is an evidence of his imposing character in the country ; and that it was justified by all the high properties which can give honor and dignity to that elevated station.

I have thus, brethren of the bar, attempted a sketch of the life of our departed brother. It has been hastily drawn, and, I fear, tedious in the repetition. My object has been, in the incidents of his life, to discover and exhibit the traits of his professional character and virtues. Will you bear with me while I further allude to a few of the characteristics of his mind and heart, and his qualities as a man and orator, as drawn from this history and from observation? They influenced his professional character, and formed a part of it. I mean to attempt no general portrait or full-length likeness. A different pencil would be required to combine the features, and give the living expression.

His manly, graceful, and elegant person ; his powerful, clear, musical voice, are well remembered by



AN BWT ZDs
A discourse on the professions

you all. His countenance exhibited a happy combination of intellect and sensibility ; broad and open, yet delicate, cheerful, and benignant ; giving, perhaps, at first view, more the impression of his generous and benevolent heart, than of his strong mind and lofty genius. The first impulse was to love ; the second, to admire ; the third, to revere and venerate its possessor.

His manners were a singular union of artless simplicity, and polished elegance and dignity. In the private and social circle his conversation always breathed a pure and gentle spirit, while it was animated, judicious, and instructive ; not wasted in idle professions, but shedding the active influence of his own learning and wisdom on those around him. There his genius often showed itself, not merely unfettered, but luxuriant in its sports and movements—abundant in stores of classical and general reading. His benevolence never permitted his keen and Attic wit to give pain ; his fancy played in innocent gambols, with amusing and animated variety ; or shot its flight with rapid and exalted wing, dropping the balm of peace as well as joy ; so cheerful and gay, that it “lent a new spring to the pulse of the heart.” In intercourse with the world, his manners had a large share of dignity and firmness ; never offensive, never sycophantic ; a just medium, and equally opposed both to that confident self-esteem which justly gives offence, and that cringing suppleness which as justly loses respect. They were the united result of native ease and grace ; pure and refined

sentiment; self-respect, and tender regard for the feelings of others. They were also, without doubt, in some degree, affected by his just estimate of female character and virtues, and enjoyment of female society. He has declared that "the genuine virtue and refinement of any man might be safely estimated by the delicacy with which he regards the purer and softer sex; and, that irreverence to them was evidence that the brain was obscured by the meanest pride, or the heart corrupted by the grossest vice." No one felt more deeply the sympathy, respect, and protection which a generous and ennobled nature is always ready to extend to the gentleness and sensibility of virtuous woman; to the disinterested generosity and enthusiastic love, which makes her forget her own ease in the promotion of ours; and, in spite of constitutional feebleness and delicacy, enables her to defy climate and toil, while she believes that she can advance the convenience and happiness of the lord of her affections. He, at least, did not make a poor and base return. His pen loved to portray her virtues, and his heart delighted in elevating her character and cultivating her intellect. In his home, his manners assumed their most exquisite form—combining all the fondness and affection of the father, all the tenderness and assiduity of the husband, with all the cheerfulness and warmth of the beloved companion.

He had one peculiarity, in his intercourse with the young, of more marked excellence than I have ever seen in any other man. He loved them with ardor,

and joined in their conversations and amusements with infantile ease and simplicity, until they forgot his age, and opened their feelings before him, as if he were their playmate. Yet they never lost their veneration, and respect, and love for him ; and, without their perceiving it, he so guided their amusements and remarks, as to leave some strong sentiment, some useful truth, fastened in the right place in their hearts. I never knew him leave a child, even after a short conversation, without having produced in the child affection for himself, some elevation of feeling, some well directed thought and purpose. You can all estimate his family circle from this statement, better than I can describe it. No parent ever felt there a purer rapture or a prouder triumph. Had he, like the Teacher of Crotona, preferred to his profession the instruction of youth, and the formation of the future patriots, and orators, and statesmen of his country, he would, like that Teacher, have conferred lasting blessings, and won immortality.

In his instance, the controlling qualities of the mind—memory, imagination, and judgment—were strong. He had a keen and intuitive perception of fact, character, and the beauties of nature ; and his memory, quick and tenacious, retained his observations with the freshness of the moment when they were made. It gave him no trouble to recall them, whenever they were needed, in conversation or public debate. His imagination was luxuriant but not extravagant ; perhaps too rich in resources, and

too active, in early life, for the staid and sober concatenation of precise argument; but study and labor brought it to the just position which it ought to occupy, as the handmaid of reason. His judgment was quick, clear, and accurate; his power of reasoning comprehensive, yet close; embracing, without confusion, all those matters which justly affect the decision, and arranging them in their relative order of weight and force. These properties combined, gave unusual energy and power to the argument which he presented, whether in public or private discourse.

His reading was extensive. He visited every haunt of genius, and travelled over every region where science had shot its rays. Over its whole empire he had ranged with irrepressible ardor; examined its almost boundless extent; and penetrated the mystery and obscurity in which many parts of it lie covered and involved to less penetrating eyes.

He read much upon the philosophy of the mind, as he did upon the philosophy of the law. The Bridgewater Treatises and corresponding topics were among his last studies. Astronomy, with the phenomena of nature connected with it, which are so apt to excite the curiosity and speculation of mankind, were with him a favorite theme, both of study and conversation.

With poetry and other departments of taste he was familiar; and his memory retained, with accuracy, the finest passages in works both ancient and modern. Shakspeare and Cicero were, with him,

45

not amusement alone, but study ; and all their illustrations were the commonplaces of his mind.

His labor was without limit. I know of but one individual (Pinkney) who in this respect equaled him. They both improved steadily and rapidly, to the last moment, as advocates, counsellors, and scholars ; exhibiting to the young aspirant after fame the true and only road to eminence ; and proving, to demonstration, the error of the common opinion, that the mind attains its usefulness, and vigor, and abundance, before the age of forty or forty-five ; and that the struggle afterwards is to maintain its strength and acquirements, and to use them for the individual and public benefit. Their progress in intellectual wealth, and its active use, was at no period more rapid than the last fifteen years of their lives.

On few points were Mr. Wirt's habits of labor more useful to him than in the correction of his style of writing and speaking. He has been accused of being too florid in style, too ornamented in diction, and approaching that which Cicero calls *Asiatic*, and condemns. The criticism was just, to some extent, when applied to his earlier productions ; but if his professional arguments, and the later efforts of his pen—those, for example, to which I have referred—be examined, it will be found that he was able to correct his error, and that his neatly condensed and chastely ornate style may be added as another proof of his steady advancement—another merit worthy of imitation.

His principles of conduct were those of punctilious honor, refined and guarded by moral and religious

sentiment. He did not give, and was not willing to receive offence. Sensitive himself to the slightest impeachment, he avoided, upon principle, all imputation upon others, which was not justified by the clearest evidence. He was open to the approaches of civility and the courtesies of social intercourse, and willing to receive advances from all ; a shrewd observer of character, with an almost intuitive perception of the appropriate feelings, thoughts, and language of every situation. Yet, it sometimes happened that he had to recall confidence and the praises bestowed in advance. This arose, not from an inability to inspect and judge deeply, nor from want of knowledge of human nature, or the motives, springs, and purposes of human action; but from the generosity of his whole temperament, which abstained from condemnation in advance, and made him yield to appearances, in the hope that subsequent experience would justify the adventure. But he never made intimate friends incautiously. Those whom he chose, through his whole life, were among the sober, the sedate, and the diligent. The gay and the dissipated were, at some periods, his companions, but never his friends. His standard was too high for such. He regarded friendship as necessary to our happiness and our virtues. His heart was open to its brightening countenance and its inspiring salute. He insisted that we all require its offices, not only to console us in adversity, and rejoice with us in prosperity, but to chastise our immoralities, and correct them in their source ; to watch over our

manners with benignant solicitude, and admonish us without reserve. These offices he received kindly, and ministered freely.

He possessed strict and scrupulous integrity, enthusiastic warmth and bravery of spirit, and that *moral and civic courage* which is the most uncommon, most difficult of attainment, and most valuable and commanding of all the qualities which dignify and adorn the man and the citizen ; without which the public agent is a public curse.

With such personal advantages, manners, learning, powers of intellect, principles of conduct, and severe labor, it could not be that Mr. Wirt should have fallen short of the highest elevation in the profession of the law. They are the component parts, the necessary constituents of real greatness, in that profession—a profession which ought not to corrupt the heart, or narrow the understanding, because superiority in it is the first distinction in a free State. When strongly united and combined, these properties form the very *beau ideal* of a great American constitutional lawyer.

His eminence did not create hatred, or envy, or jealousy. His rivals regarded him as a competitor worthy of their powers, and of the field on which they contended ; one who never intentionally wounded their feelings ; never, if successful, manifested the self-complacency of triumph ; never, when defeated, detracted from their merits. They had no disposition to be at enmity with him. If they had, they would have found themselves in the predicament

which Dr. Johnson described, when he said of Sir Joshua Reynolds that he was one of those men with whom, if a person desired to quarrel, he would have been most at a loss how to abuse.

His inferiors and juniors loved and respected him, for he was always ready to treat them as equals ; always prompt, without the appearance of condescension, to afford them counsel, advice, and assistance.

The Judges also regarded him with attachment and respect ; and have given feeling testimony to his worth and ability.

His manner in forensic argument was earnest, and often impassioned. With a voice clear, full, sonorous, articulate, and flexible ; modified as feeling or argument required, regulated so that it did not escape his control, into monotony or harshness ; with an expression of countenance sincere and animated ; gestures, natural, easy, and forcible ; an attitude, graceful and dignified ; he was always ardent and zealous. It was the combination of these particulars which Demosthenes denominated action ; and they constituted the action of Mr. Wirt. He understood a truth, not always felt to be a truth, that arguments addressed to the understanding require an impassioned manner, as well as appeals to the passions. It is necessary to produce a conviction that the speaker feels that he is right ; to command confidence in his argument and in his feelings ; to make a lodgement in the affections, and drive home to the judgments and hearts of hearers the warm appeal, the cogent reasoning, the strong conclu-

sions, and the deep convictions of the orator. The earnestness of Wirt appeared in his brow, his voice, his gestures ; and yet his unwavering lip, clear and firm enunciation, distinct strokes of thought, connected movement of the mind, proved that, though ardent, he was collected ; though vehement, profound ; though in the excitement of feeling, temperate, even to smoothness.

His earnestness, at no time, made him overlook the respect due to the court, and to the feelings and rights of his adversary. There is here a narrow and almost imperceptible line, which is to be trodden by the practitioner. It lies between the vigilant attention and ardent prosecution of the client's rights on the one side ; and proper respect for, and submission to the court, and regard for the feelings of the opponent, on the other. It is a point, in our practice, less successfully reached than any other. It can only be attained by him who possesses a clear, unclouded judgment, decisive control over his own feelings and movements, and perfect sensibility to the rights and feelings of others. It is not unjust to my professional brethren to say, that Mr. Wirt reached that point more successfully, and walked upon this narrow line with more unerring certainty, than any man with whose professional course I am intimately acquainted.

His arguments usually embraced all of the law which was requisite for a decision. I do not assert that he presented clearer views of the law, nor seized and exhibited the strong points of a cause with

greater force than some others. It was not so ; he had his equals, if not his masters, in that respect. But while few could equal his potency in this, his peculiar merit lay in a lucid order—in that power of combination and arrangement, which collected, as he progressed, every topic of fact, of argument, of illustration; arranged them without the slightest confusion, and brought their combined weight to bear upon the conclusion at which he aimed ; and, like the mountain torrent which had gathered up the rivulets in its course, he swept the feelings and judgment along with mighty power. His mind embraced the *whole* of every controversy in which he was engaged, and suggested every consideration which ought to bear on its decision, even to the remotest consequences ; and his comprehensive thought found illustrations and analogies in universal reason and abstract truth, as well as in the moral sublime of nature and feeling. Many others reason clearly and cogently ; many declaim splendidly and pathetically ; but few are great in both departments. In him, rhetoric and logic were combined in high perfection. He reasoned with such Herculean force, as rendered resistance always difficult ; he declaimed in such manner, that the overwhelmed hearer was often carried unresistingly to his conclusions. And he had the immense advantage of moral weight of character to aid him. The hearer felt that no sordid sycophant, no vicious intriguer, no guilty mind, addressed him ; but that the great orator was also the good man.

I mean, on this topic, to draw no comparisons with the past or the present ; but I protest against the promulgation of the opinion, that modern times, and especially this land of light and liberty, must be humbled in comparison with other nations and other times. Give to American orators (and Wirt was among them) " the same themes, the same surrounding circumstances, and they will stir the blood as freely ; agitate the heart as deeply ; control the will and lead the judgment as triumphantly ; rival Tully, in unveiling a conspiracy ; and the speaker of Athens, in drawing a circle round his beloved city, and holding a victorious tyrant at bay."

The theatre on which Wirt appeared, in the latter part of his life, was one cause of his splendid reputation. The tribunal which he addressed demanded the best efforts of the human mind, in argument. It was the concentrated judicial power of a mighty Union of free States. It stands the pride and the boast of legal science. Its learning, integrity, and firmness, have been equal to its magnificent jurisdiction. It is the Areopagus of a great nation ; the Amphyctionic assembly of confederated powers ; the Aulic council of a combined empire ; and on its decisions, past and future, hang more of the destinies of free institutions and the liberties of the world, than upon any other tribunal upon earth.

My brethren, if I have rightly exhibited the character and virtues of Mr. Wirt, may I not declare, that, as he inscribed the life of Patrick Henry to the young men of Virginia, to increase their virtues and

public spirit, so his own life should be dedicated to the young men of the nation ; to those who are rising, the hopes of our profession ; to all the young, who are to form the nation ; who have before them a destiny of glorious and increasing brightness, but on whom will rest a fearful responsibility—fearful, from the felicity and honor which Providence has bestowed, and which they must sustain, protect, and defend; fearful in its account to God and the world of man.

But, brethren of the bar, I should be untrue to his memory, unfaithful to you and to my own feelings, if I closed this notice of his character and virtues without a distinct testimony, in relation to another and nobler trait of character—his attribute in health, his consolation in death. William Wirt was a *devout Christian*.

In his infant years he received instruction, which produced a favorable bias towards religious truth, from his aunt, under whose care he was after the death of his mother. She was a woman of great firmness, yet of equal sensibility ; and often read, with devotional voice and feeling, several pious books, and especially the old family bible ; the appearance of which, even to the clasps and binding, was held in remembrance by him. At about eight years old, an incident occurred, simple in its facts, yet sublime in the moral meaning and tendency ; and which he related as producing an abiding effect upon his feelings. A storm arose, in which the mingled wind and rain, and thunder and lightning, were terrific to the stoutest—giving awful evidence of the

power of Him who wields and controls them. In the midst of its violence, the lightning struck and rent a large tree before the door, and sent one of its branches into the house. The inmates were stupified, and trembled, and sought impotent refuge in the darkest part of the room. His aunt calmly took down her bible, and, placing it upon the table, read, in an audible and composed voice, some of its sublime passages ; thus deriving courage and support from the words of Him who was speaking in the tempest. This simple act of piety, and the confidence which it exhibited, produced a deep impression on the observant boy ; and was recurred to as evidence of the power and dignity of faith in the humblest Christian.

As he advanced further in life, there was a period when he had strong convictions upon the subject ; but they were not permanent. He was thrown into society where infidel works were often read, and in which it was not unfashionable at that day to give utterance to that scepticism which had been imported from the region where the Goddess of Reason was worshipped, and where the unnatural alliance between infidelity and liberty had been consummated. Misled, for a time, the mind of William Wirt doubted the authenticity of the sacred volume. But he was not of a temper, on this or any other subject, to rely long upon the opinion of others, nor to rest satisfied with doubts which his own efforts could confirm or remove ; and this was especially true in regard to a point of infinite magnitude, af-

fecting all his relations and duties, present and future. He determined, therefore, to bring his mind to the investigation ; and, after full examination, to adopt the conclusions to which it should lead him.

Without neglecting his professional engagements, he discharged this office ; and the result may be regarded as a triumph to Christians every where ; for where is the mind more competent to the task ; possessing larger views of all the relations of man to man ; better knowledge of the aids which science and learning afford ; stronger powers of investigation ; better acquaintance with the principles by which error is to be detected, and truth established ; or governed by more candor and sincerity ? Tell me in whom of all those that have disputed the Christian doctrine ? I have neither known nor read of any such.

Mr. Wirt examined, with care, the evidences of Christianity, both internal and external. He read, with close attention, Butler, Addison, Watson, Home, Keith, Campbell, Faber, and others. He examined also every doubt suggested by the sceptic ; every argument and dogma which the infidel had uttered, and which fell under his notice. He pushed the inquiry until he found the doubt dissipated, and the argument answered. He literally studied Hobbes, Voltaire, Hume, Paine, Bolingbroke, and the whole host who have been marshaled against the Christian cause ; and the result was, deep conviction, unhesitating, assured reliance on its authenticity and truth.

55

But he did not stop at the assent of the understanding. He openly professed his belief, and was enabled to lay all his talents and learning, with deep humility, before the cross of Calvary. He was not ashamed of the gospel of Christ.

Before the sceptic shall sneer, or the infidel rail, at the annunciation of this fact, let him bring to the investigation of the same great and leading truths the same labor, skill, talent, learning, knowledge of the rules and principles of evidence, the same candor and integrity of purpose.

These opinions and feelings of Mr. Wirt could not fail to influence his professional character and virtues ; and the effect upon them must be, to the members of the bar and to others, a subject of interest and solicitude. An opinion has prevailed, that deep sensibility to religious truths, and an open profession, were calculated to weaken the power and efficiency of the practitioner. It was not so with him. In proportion to his investigations, he acquired additional elevation of purpose, renewed efforts, bolder and stronger views of duty ; and, by his active virtue, preached, sublimely, the doctrines which he professed. It is not too much to allege that his growth in power and reputation was in proportion to the clearness and enlargement of his views, in regard to the great questions which act upon all the personal and relative duties of man, and give authority and sanction to all the laws and obligations of society. At no period of his life was he more faithful to the in-

terests of his clients, more patient in the investigations of his causes, more forcible in argument and illustration, or more zealous in all the duties of his calling. He did not become an ascetic nor a fanatic. And why should it be otherwise? He has said that the true office of religion is to exalt our reason, enlarge and sublimiate our affections ; and, in a letter written in 1833, he contests the notion to which I have referred with earnestness and demonstration.

It is an interesting fact, that his last effort at composition, which bears date on the 6th January last, immediately before he left home to attend the Supreme Court, was upon a religious subject. The work of Mr. Rennell's Christian Advocate, in the University of Cambridge, on the sceptical opinions propounded by some eminent physiologists of France, and adopted and echoed by those of England, was about to be republished in this country ; and he was requested to prepare a preface. The attempt, in his hands, swelled to a long essay. In it, the doctrine of Bichat, that "*organization of itself constitutes the whole of life*;" and that of Lawrence, that "*medullary matter thinks*," are contested with wit, ridicule, and argument, as but a new form for the old notions of the materialists of the last century—leading to the unavoidable conclusion that we are a mere mass of organized matter ; that there is no necessity for a vital principle to impel and sustain our organization ; no moral responsibility in man for any act to which his passions may urge him ; no necessity for an in-

telligent spirit, and no function for it to perform. And he insists upon the conclusion, that, "if the Christian opinion be superstition, it is one which ennobles and exalts us, by disposing us to aspire to the imitation of angelic natures, and giving us the hope of immortality; theirs is a superstition which levels them, in life and in death, with the beasts that perish. Our belief is one which tends to the order and peace of society; to the promotion of decency, purity, benevolence, and all the kind charities and affections of life; theirs is the one which transformed, for a time, the most refined and courteous people of Europe into a nation of unchained, ferocious bedlamites; their moral sense extinguished, and all the profligate passions of their nature let loose, with a phrensy, ungovernable, irresistible, and terrific."

If his biography shall be written, and his writings collected, this short but able work will merit publication and notice.

The last acts of Mr. Wirt, on the day when he was seized with his fatal illness, were those of private and public devotion. It was the Sabbath. He was bowed down by no fears of approaching dissolution, to excite the anxious expression of his feelings. Within the twenty-four hours preceding, he declared to me, that he felt all the firmness of reassured health, and the anticipation of days which did not yet seem to be numbered. In this assurance, in private, with humble penitence and holy ardor, he commended himself, and those he loved, to the keep-

ing of covenanted Grace and Mercy ; and asked, fervently, for the extension of the Redeemer's kingdom. And in public, in this hall, surrounded by the evidences of human power, and the allurements of human ambition, his tears testified his sensibility, while the preacher, with apostolic eloquence, illustrated the declaration: " We preach Christ crucified ; unto the Jews a stumbling-block, and to the Greeks foolishness ; but unto them which are called, Christ, the power of God, and the wisdom of God."

He died as a Christian ought to die. After a torpor, which lasted several days, and rendered him almost insensible to surrounding objects, he was enabled to revive, and to recognise his beloved family, and give them hopes and consolations, infinitely more precious than those which Tacitus has suggested for the weeping relatives of Agricola—such as the world could not give, and cannot take away. His death, in the anticipations which lay before him, was peaceful and triumphant ; not the triumph of the scholar, who had conquered the difficulties of science, and acquired applause by the extent, and accuracy, and abundance of his learning ; not of the patriot, who had given his all to his country and his fellow-men, which they had a right to ask at his hands ; not of the profound jurist and eloquent advocate, who had reached the summit of his profession, and received the award of equal rank with the proudest and the strongest ; no, nor even of the father and the husband, who had discharged all his duties with a beauty

59

and fidelity which left nothing to regret ; but it was the triumph of faith in the redemption purchased by atoning blood.

Death is not, to *him*, an eternal sleep. The bonds which have been sundered shall be reunited. He has left memorials of good to his contemporaries, and those who shall succeed them. He had a hope of immortality and glory beyond the tomb.

THE END

Gaylord
PAMPHLET BINDER
Syracuse, N. Y.
Stockton, Calif.

AN BWT ZDs
A discourse on the professions
Stanford Law Library



3 6105 044 053 150

